

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 201810167	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/03/2018 8:00 AM	Location of Incident: § 87(2)(b)	Precinct: 14	18 Mo. SOL 4/3/2020	EO SOL 11/18/2020	
Date/Time CV Reported Thu, 12/06/2018 3:32 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/06/2018 3:32 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Thomas Manning	01789	930644	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Thomas Manning	Abuse: Sergeant Thomas Manning entered § 87(2)(b) in Manhattan.	

Case Summary

On December 6, 2018, civil attorney § 87(2)(b) filed this complaint on behalf of his clients, § 87(2)(b) and § 87(2)(b) with the CCRB by phone. This case was reassigned from Investigator Woroniecki to Investigator Roche on July 25, 2019.

On October 3, 2018, at approximately 8 a.m., Sgt. Thomas Manning, of the 14th Precinct, accompanied § 87(2)(b) and her assistant, § 87(2)(b) to § 87(2)(b) § 87(2)(b) in Manhattan so § 87(2)(b) who had been fired by email the night before, could retrieve what she claimed to be personal property. Sgt. Manning entered the building, walked past the security guard, § 87(2)(b) and went up to § 87(2)(b). Sgt. Manning entered the private office space leased by § 87(2)(b) and § 87(2)(b) (**Allegation A: Abuse of Authority – Entry of Premises, § 87(2)(g)**) and spoke with employees, § 87(2)(b) and § 87(2)(b) who confirmed that § 87(2)(b) had worked there. After speaking with the employees, Sgt. Manning escorted § 87(2)(b) into the office space, and she removed items that she identified as her personal belongings with an estimated value of over \$100,000. A referral for this portion of the complaint was sent to IAB under CCRB case number 201910636.

No arrests or summonses resulted from this incident.

The investigation obtained short clips of security footage of the incident, which were combined into one contiguous video (**BR 01**). There was no body-worn camera footage of the incident (**BR 02**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Thomas Manning entered § 87(2)(b) § 87(2)(b) in Manhattan.

It was undisputed that on October 3, 2018, at approximately 8 a.m., Sgt. Manning entered § 87(2)(b) § 87(2)(b) in Manhattan so that § 87(2)(b) who had been terminated the day prior, could retrieve what she claimed to be her personal property. It is also undisputed that § 87(2)(b) and § 87(2)(b) the owners of the business, § 87(2)(b) had told § 87(2)(b) that she could not enter the office and that § 87(2)(b) was not in possession of a court order indicating that she had permission to enter the premises or to retrieve her belongings.

§ 87(2)(b) (**BR 03**) and § 87(2)(b) (**BR 04**) provided consistent statements. § 87(2)(b) and § 87(2)(b) were co-presidents of the § 87(2)(b). Their office was located within a private building that was not open to the public. In order to gain entry to the office, individuals needed to be pre-approved and pass through security in the lobby.

On May 21, 2018, § 87(2)(b) and § 87(2)(b) entered into a business partnership with § 87(2)(b) who was a § 87(2)(b). § 87(2)(b) was hired as a private contractor, and her assistant, § 87(2)(b) was hired as an employee. Based on the non-binding term sheet (**BR 05**), § 87(2)(b) agreed to provide designs and business contacts while § 87(2)(b) agreed to supply the raw goods and cover the manufacturing costs for the designs.

On October 2, 2018, § 87(2)(b) and § 87(2)(b) decided to terminate their partnership with § 87(2)(b) because she had not delivered any of the sales goals she had promised. § 87(2)(b) emailed § 87(2)(b) (**BR 06**) and told her that the business relationship was over. In the email, § 87(2)(b) requested that § 87(2)(b) take some time to think about how to proceed and told her not to come in to the office until October 8, 2018, at the earliest. § 87(2)(b) also sent a termination email to § 87(2)(b). That same day, § 87(2)(b) and § 87(2)(b) in person, told the building security guard, § 87(2)(b) that § 87(2)(b) and her assistant had been terminated and were not permitted into the office without their authorization.

On October 3, 2018, at approximately 8 a.m., § 87(2)(b) and § 87(2)(b) who were working remotely from their homes in § 87(2)(b) received a phone call from an employee, § 87(2)(b) who told them that Sgt. Manning and § 87(2)(b) were at the Manhattan office and were taking items that

§ 87(2)(b) claimed belonged to her. § 87(2)(b) and § 87(2)(b) asked to speak with Sgt. Manning, and § 87(2)(b) passed the phone to Sgt. Manning. § 87(2)(b) and § 87(2)(b) told Sgt. Manning that § 87(2)(b) was not permitted to be in the office and was not allowed to remove any items from the office. § 87(2)(b) and § 87(2)(b) both asked Sgt. Manning to stop § 87(2)(b) from removing anything from the office and requested that Sgt. Manning wait until they arrived at the office with an attorney. Sgt. Manning told them that he was too busy to wait. § 87(2)(b) and § 87(2)(b) asked Sgt. Manning the legal premise for him being at the office, and Sgt. Manning replied that he knew the law and that he had done “this” on a daily basis.

§ 87(2)(b) and § 87(2)(b) drove together from § 87(2)(b) to the Manhattan office, arriving between 10:45 a.m. and 11 a.m. § 87(2)(b) was not at the office, but Sgt. Manning was present. § 87(2)(b) and Sgt. Manning went into § 87(2)(b)'s office, and Sgt. Manning told them that § 87(2)(b) had shown him paperwork that he deemed legally sufficient for her to claim and retrieve items from the office. § 87(2)(b) reiterated to Sgt. Manning that § 87(2)(b) had been terminated and that she was not permitted in the office. When § 87(2)(b) asked Sgt. Manning for a copy of the documents that § 87(2)(b) showed him, Sgt. Manning stated that he had not made any copies. § 87(2)(b) and § 87(2)(b) also asked Sgt. Manning for an inventory of the items that § 87(2)(b) took, but Sgt. Manning stated that he had not taken one.

§ 87(2)(b) and § 87(2)(b) showed contracts and accounting documents to Sgt. Manning supporting their claim that § 87(2)(b) had no legal authority to be in the office or to take possession of any of the work products therein. Having reviewed these documents, Sgt. Manning stated that § 87(2)(b) and § 87(2)(b) may have had enough documentation to file a court complaint against § 87(2)(b) but that they would need to complete a full inventory. Sgt. Manning then left the office.

Once Sgt. Manning left, § 87(2)(b) and § 87(2)(b) conducted an inventory of the office and determined that § 87(2)(b) took approximately § 87(2)(b) and other intellectual property. § 87(2)(b) and § 87(2)(b) estimated that § 87(2)(b) took between \$30,000 to \$40,000 in raw products. Combined with the intellectual property that § 87(2)(b) took from the office, they estimated that, in total, the value of the items was in excess of \$100,000.

§ 87(2)(g)
When § 87(2)(b) arrived at work, he spoke with the building security guard, § 87(2)(b) who told him that § 87(2)(b) was not allowed to enter the office. Approximately 10 to 15 minutes later, § 87(2)(b) called § 87(2)(b) and told him that there was a police officer, Sgt. Manning, in the lobby with § 87(2)(b). § 87(2)(b) told § 87(2)(b) that she was not permitted in the building, but she and Sgt. Manning ignored § 87(2)(b) and walked past him to the elevators. § 87(2)(b) went to the hallway outside of the office and waited until Sgt. Manning and § 87(2)(b) got off the elevator. Sgt. Manning told § 87(2)(b) that he needed to open the door. Because Sgt. Manning was an officer, § 87(2)(b) did not think that he had the choice to refuse, so he allowed Sgt. Manning and § 87(2)(b) to enter. § 87(2)(b) told Sgt. Manning and § 87(2)(b) that they could not take anything from the office, but Sgt. Manning told them that he could do whatever he wanted. § 87(2)(b) then loaded up property onto a cart owned by § 87(2)(b) and, after a few hours, left the location. § 87(2)(b) was not sure which items, specifically, § 87(2)(b) took with her.

§ 87(2)(b) and § 87(2)(b) (BR 08) consistently stated that § 87(2)(b) went with § 87(2)(b) to the 14th Precinct stationhouse to ask for police assistance in retrieving § 87(2)(b) that § 87(2)(b) brought with her to § 87(2)(b) when she was hired. § 87(2)(b) wanted police assistance in case § 87(2)(b) and § 87(2)(b) gave her any trouble when she tried to take her things. § 87(2)(b) who was with § 87(2)(b) showed Sgt. Manning a copy of her termination email and her ID, and he agreed to accompany her to the office so she could retrieve her belongings.

When they met at the office, Sgt. Manning went past security and up to the office, where he confirmed with employees that § 87(2)(b) and § 87(2)(b) worked there. Having done so, Sgt. Manning escorted § 87(2)(b) and § 87(2)(b) up to the office. Sgt. Manning verified with employees who were present that the items that § 87(2)(b) was taking actually belonged to her. § 87(2)(b) then took her

belongings, which consisted of § 87(2)(b), general office supplies, and her computer, and left the office.

The investigation was unable to obtain statement from § 87(2)(b) (BR 09) and § 87(2)(b) (BR 10).

Sgt. Manning (BR 11) stated that § 87(2)(b) and § 87(2)(b) came to the 14th Precinct stationhouse requesting assistance in retrieving § 87(2)(b)'s personal belongings from her office. § 87(2)(b) explained that she had been terminated via email the night before and that, because there was a long weekend coming up, she would not be able to get into the office until the following Monday, which was approximately four days away. § 87(2)(b) showed Sgt. Manning the termination email and her work contract and explained that she had a laptop, a phone charger, and some dress samples in the office that she needed. Sgt. Manning thought that it was unreasonable for § 87(2)(b) to have to wait four days to get her property and that it had been unreasonable for § 87(2)(b) and § 87(2)(b) to terminate § 87(2)(b) via email and not in person when she would have been able to gather her own personal belongings without having to wait.

§ 87(2)(b) provided Sgt. Manning with § 87(2)(b)'s phone number, and he tried to contact her while still at the stationhouse, but she did not answer. Sgt. Manning then told § 87(2)(b) to meet him at the office, which was in a private building with a security guard. Sgt. Manning could not recall any interaction he had with building security and thought that he just walked into the building and went up to the office, which was open. Once in the office, Sgt. Manning spoke with § 87(2)(b) and § 87(2)(b) and asked them if § 87(2)(b) was an employee. They both confirmed that § 87(2)(b) was an employee and pointed out to Sgt. Manning § 87(2)(b)'s office space and items that belonged to her.

Having confirmed with § 87(2)(b) and § 87(2)(b) that § 87(2)(b) had been an employee, Sgt. Manning escorted § 87(2)(b) up to the office, and she and § 87(2)(b) both started to gather § 87(2)(b)'s belongings. § 87(2)(b) took more items that Sgt. Manning initially thought she would, but, because § 87(2)(b) and § 87(2)(b) both confirmed that the items belonged to § 87(2)(b) he did not think it necessary to stop her from taking them. As § 87(2)(b) was gathering items, Sgt. Manning spoke with § 87(2)(b) on the phone. § 87(2)(b) told Sgt. Manning that she did not want § 87(2)(b) to take anything from the office because she could not be sure of what she was taking and asked that he wait for her and § 87(2)(b) to arrive at the office. Sgt. Manning told her that he was too busy to wait and that he was satisfied that the documents that § 87(2)(b) showed him were legally sufficient to allow her to take items he believed belonged to her.

When § 87(2)(b) and § 87(2)(b) arrived at the office, they called Sgt. Manning and requested that he come back to the office to discuss what happened. Sgt. Manning came back and told § 87(2)(b) and § 87(2)(b) it had been unreasonable for them to terminate § 87(2)(b) by email and not permit her immediate access to obtain her belongings. Sgt. Manning added that if the ownership of anything § 87(2)(b) was disputed, they could take the matter up in court. Sgt. Manning did not take an inventory of the items that § 87(2)(b) took because he did not think it necessary to do so because he believed that they were hers despite § 87(2)(b) and § 87(2)(b) telling him on the phone that they were not. After speaking with § 87(2)(b) and § 87(2)(b) Sgt. Manning left the office. At no point during the incident did Sgt. Manning consult with a supervisor or other officer regarding his decision to assist § 87(2)(b) obtain her alleged belongings.

Security footage of the incident (BR 01) captures Sgt. Manning walking around the office area from approximately 8:23 a.m. to 10:59 a.m. while § 87(2)(b) and an unidentified white male remove § 87(2)(b)'s belongings, and computer files from the office. At 2:20 minutes, Sgt. Manning takes a cell phone from § 87(2)(b) and speaks to whomever is on the other end.

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§ 87(2)(b) On October 3, 2018, § 87(2)(b) went to the 14th Precinct stationhouse, showed Sgt. Manning her termination email, and requested his assistance in retrieving her personal items. Sgt. Manning stated that the only reason he agreed to assist § 87(2)(b) was because he thought that it was unreasonable for her to have to wait until after the

long weekend to retrieve her personal items. Sgt. Manning entered the private office space, bypassing the security guard, and thereby assisted § 87(2)(b) in retrieving items, the ownership of which was disputed. The exact value of the items § 87(2)(b) took was estimated to be over \$100,000. § 87(2)(b) did not have a court order indicating that she was permitted to enter the business or to retrieve the items she stated were hers.

Patrol Guide procedure 214-13 (**BR 12**) states that uniformed members of the service should be cognizant that incidents to which they respond may be the outgrowth of a civil process. The authority to break and enter pursuant to purely civil process such as repossessions, evictions, and civil commitments is given to the city marshal/sheriff. The only assistance which the police must render to a marshal is the general mandate of the New York City Charter to preserve the peace and protect life and property.

In See v. Seattle, 387 U.S. 541 (1967) (**BR 13**), the court held that administrative entry, without consent, upon the portions of commercial premises which are not open to the public may only be compelled through prosecution or physical force within the framework of a warrant procedure.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 14**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 15**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**BR 16**).
- Sgt. Manning has been a member of service for 17 years and has been named in five CCRB complaints and 11 allegations, none of which were substantiated.

○ § 87(4-b), § 87(2)(g)

- § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this case.
- On November 24, 2019, a Notice of Claim was submitted to the Comptroller's office, the results of which will be added to the case file upon receipt (**BR 17**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 18**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 19**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**BR 20**).

Squad No.: 10

Investigator:

Inv. Maura R. Roche

Signature	_____	_____	_____
		Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date